

2009 DRAFTING REQUEST

Bill

Received: **01/23/2009**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - JLC 7-9485**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - juvenile justice**

Extra Copies:

Submit via email: **YES**

Requester's email: **anne.sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Juvenile correctional costs; funding to counties

Instructions:

See attached--draft up WLC-0183/1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	gmalaise 01/24/2009	bkraft 01/27/2009					S&L
/1			phenry 01/27/2009		lparisi 01/27/2009	cduerst 03/31/2009	

FE Sent For: @intro. 4/6/09

<END>

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1 bjk 1/27 Le
conversion
ph
1/23

1/27 ph/B

FE Sent For:

<END>

- 1 **AN ACT** *to renumber* 301.26 (4) (b); and *to create* 301.26 (3) (de) and 301.26 (4) (b)
2 2. of the statutes; **relating to:** funding to counties to cover increase in juvenile
3 corrections costs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council's Special Committee on High-Risk Juvenile Offenders.

Under current law, counties are financially responsible for the costs of juvenile delinquency-related services except for certain juveniles, such as those placed in the serious juvenile offender program and juveniles who are convicted as adults in the adult system. The community youth and family aids program ("youth aids") provides each county with an annual allocation of state and federal funds from which the county may pay for juvenile delinquency-related services, including out-of-home placements and non-residential, community based services for juveniles. For correctional services, the department of corrections bills counties based upon a statutory daily rate for the service provided.

This bill draft provides that the department of corrections must allocate additional funds to counties if there is an increase in the daily rate charged to counties for correctional services to cover the increases. In distributing this funding, the draft requires the department to consider each county's proportionate use of applicable services of the department of corrections during the previous calendar years.

- 4 **SECTION 1.** 301.26 (3) (de) of the statutes is created to read:
5 301.26 (3) (de) In addition to the funds allocated under par. (c), the department shall
6 allocate funds to counties under sub. (4) (b) 2. and shall consider each county's proportionate
7 use of applicable services of the department under s. 938.34.

NOTE: Requires the department of corrections to allocate funds in addition to each county's youth aids allocation, as provided in SECTION 2 of the draft, and requires the department to consider each county's

proportionate use of juvenile correctional services in making the allocation.

1 **SECTION 2.** 301.26 (4) (b) of the statutes is renumbered 301.26 (4) (b) 1.

2 **SECTION 3.** 301.26 (4) (b) 2. of the statutes is created to read:

3 301.26 **(4)** (b) 2. If there is an increase in the per person daily cost assessment, there shall
4 be an increase in the total funds available to all counties under sub. (3) (de) to cover increases
5 for state charges under par. (a).

NOTE: Provides that, if there is an increase in the daily rate charged to counties for correctional services, there must be an increase in the total funds available to counties to cover increases in these charges.

COMMENT: This draft is based upon provisions that were included in the 1993–94 statutes.

6 (END)



DRAFT
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1756/PL

GMM:...:ph

IN 1/24

Soon

1
ph

bjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

jc/Note component
This bill is explained in the *NOTES* provided

by the Joint Legislative Council in the bill

→ FE-SL

SAV
x-refv

Inserts

Reynolds

- 1 AN ACT *to renumber* 301.26 (4) (b); and *to create* 301.26 (3) (de) and 301.26 (4)
2 (b) 2. of the statutes; **relating to:** funding to counties to cover increase in
3 juvenile corrections costs.

Analysis by the Legislative Reference Bureau

> ~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill ~~draft~~ was prepared for the Joint Legislative Council's Special Committee on High-Risk Juvenile Offenders.

Under current law, counties are financially responsible for the costs of juvenile delinquency-related services except for certain juveniles, such as those placed in the serious juvenile offender program and juveniles who are convicted as adults in the adult system. The community youth and family aids program ("youth aids") provides each county with an annual allocation of state and federal funds from which the county may pay for juvenile delinquency-related services, including out-of-home placements and non-residential, community-based services for juveniles. For correctional services, the department of corrections bills counties based upon a statutory daily rate for the service provided.

criminal criminal justice justice
g This bill ~~draft~~ provides that the department of corrections must allocate additional funds to counties if there is an increase in the daily rate charged to counties for correctional services to cover the increases. In distributing this funding, the ~~draft~~

provides that

DOC must allocate additional funds to counties

b.11

Doc-provided

Doc

(d)

If there is an increase in the daily rate charged to counties for DOC-provided juvenile correctional services

requires the department to consider each county's proportionate use of applicable services of the department of corrections during the previous calendar years.

during the previous calendar years

SECTION 1. 301.26 (3) (d) of the statutes is created to read:

301.26 (3) (d) In addition to the funds allocated under par. (c), the department

shall allocate funds to counties under sub. (4) (b) 2. and shall consider each county's

proportionate use of applicable services of the department under s. 938.34.

NOTE: Requires the department of corrections to allocate funds in addition to each county's youth aids allocation, as provided in Section 2 of the draft, and requires the department to consider each county's proportionate use of juvenile correctional services in making the allocation.

provided by Doc

assessments specified in par. (d) 2 or 3.

~~SECTION 2.~~ 301.26 (4) (b) of the statutes is renumbered 301.26 (4) (b) 1.

SECTION 3. 301.26 (4) (b) 2. of the statutes is created to read:

301.26 (4) (b) 2. If there is an increase in the per person daily cost assessment,

there shall be an increase in the total funds available to all counties under sub. (3)

(d) to cover increases for state charges under par. (a).

NOTE: Provides that, if there is an increase in the daily rate charged to counties for correctional services, there must be an increase in the total funds available to counties to cover increases in these charges.

those

(END)

D-note

Insert 2-5

Doc

10

Insert 2-9

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1756/lins
GMM.....

(INSERT 2-5)

X

SECTION 1. 301.26 (4) (b) of the statutes is renumbered 301.26 (4) (b) 1. and amended to read:

301.26 (4) (b) 1. Assessment of costs under par. (a) shall be made periodically on the basis of the per person per day cost estimate specified in par. (d) 2. and 3. Except as provided in pars. (bm), (c), and (cm), liability shall apply to county departments under s. 46.21, 46.22, or 46.23 in the county of the court exercising jurisdiction under chs. 48 and 938 for each person receiving services from the department of corrections under s. 48.366, 938.183, or 938.34 or the department of health services under s. 46.057 or 51.35 (3). Except as provided in pars. (bm), (c), and (cm), in multicounty court jurisdictions, the county of residency within the jurisdiction shall be liable for costs under this subsection. Assessment of costs under par. (a) shall also be made according to the general placement type or level of care provided, as defined by the department, and prorated according to the ratio of the amount designated under sub. (3) (c) and (d) to the total applicable estimated costs of care, services, and supplies provided by the department of corrections under ss. 48.366, 938.183, and 938.34 and the department of health services under s. 46.057 or 51.35 (3).

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97.

(END OF INSERT)

(INSERT 2-9)

X

SECTION 2. 301.26 (4) (bm) of the statutes is amended to read:

301.26 (4) (bm) Notwithstanding par. (b) 1., the county department under s. 46.21, 46.22, or 46.23 of the county of residency of a juvenile who has been

1 adjudicated delinquent by a court of another county or by a court of another
2 multicounty jurisdiction may voluntarily assume liability for the costs payable
3 under par. (a). A county department may assume liability under this paragraph by
4 a written agreement signed by the director of the county department that assumes
5 liability under this paragraph and the director of the county department that is
6 otherwise liable under par. (b) 1.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97.

7 **SECTION 3.** 301.26 (4) (c) of the statutes is amended to read:

8 301.26 (4) (c) Notwithstanding pars. (a), (b) 1, and (bm), the department of
9 corrections shall pay, from the appropriation under s. 20.410 (3) (hm), (ho), or (hr),
10 the costs of care, services, and supplies provided for each person receiving services
11 under s. 46.057, 48.366, 51.35 (3), 938.183, or 938.34 who was under the
12 guardianship of the department of children and families pursuant to an order under
13 ch. 48 at the time that the person was adjudicated delinquent.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97.

14 **SECTION 4.** 301.26 (4) (cm) 1. of the statutes is amended to read:

15 301.26 (4) (cm) 1. Notwithstanding pars. (a), (b) 1, and (bm), the department
16 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the
17 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing
18 juvenile correctional facilities, secured residential care centers for children and
19 youth, alternate care providers, aftercare supervision providers, and corrective
20 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the
21 care of any juvenile 14 years of age or over who has been placed in a juvenile
22 correctional facility based on a delinquent act that is a violation of s. 943.23 (1m) or
23 (1r), 1999 stats., s. 948.35, 1999 stats., or s. 948.36, 1999 stats., or s. 939.32 (1) (a),

1 940.03, 940.06, 940.21, 940.225 (1), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10
2 (2), 943.23 (1g), 943.32 (2), 948.02 (1), 948.025 (1), or 948.30 (2), that is a conspiracy
3 to commit any of those violations, or that is an attempted violation of s. 943.32 (2)
4 and for the care of any juvenile 10 years of age or over who has been placed in a
5 juvenile correctional facility or secured residential care center for children and youth
6 for attempting or committing a violation of s. 940.01 or for committing a violation of
7 s. 940.02 or 940.05.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20
ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97.

8 **SECTION 5.** 301.26 (4) (cm) 2. of the statutes is amended to read:

9 301.26 (4) (cm) 2. Notwithstanding pars. (a), (b) 1., and (bm), the department
10 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the
11 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing
12 juvenile correctional facilities, secured residential care centers for children and
13 youth, alternate care providers, aftercare supervision providers, and corrective
14 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the
15 care of any juvenile 14 years of age or over and under 18 years of age who has been
16 placed in a juvenile correctional facility under s. 48.366 based on a delinquent act
17 that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20
ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97.

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1756/1dn

GMM:.....

g Lbjk

Date

Anne:

To completely restore the requirement in s. 46.26, 1993 stats., that if there is an increase in the daily rate, then DOC must allocate additional funds to counties to cover that increase, the committee should consider the following additional changes:

1. Restoring the authority of DOC under s. 46.26 (4) (b) 1., 1993 stats., to adjust the daily rates. Under current law, only the legislature has the authority to adjust the statutory daily rates in s. 301.26 (4) (d) 2. and 3., so this draft will only come into play when the legislature increases the daily rate. As you know, future legislatures are not bound by what past legislatures have done, so a future legislature could repeal the additional allocation requirement under this draft and increase the daily rate without allocating additional funds.
2. Recreate in s. 301.26 (7) a provision parallel to s. 46.26 (7) (f), which allocated sum certain dollar amounts to cover increases in the daily rate. Obviously, DOC will have a hard time allocating additional funds to cover an increase in the daily rate if no funds are available to fund that additional allocation.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1756/1dn
GMM:bjk:ph

January 27, 2009

Anne:

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2. Recreate in s. 301.26 (7) a provision parallel to s. 46.26 (7) (f), which allocated sum certain dollar amounts to cover increases in the daily rate. Obviously, DOC will have a hard time allocating additional funds to cover an increase in the daily rate if no funds are available to fund that additional allocation.

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Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

Duerst, Christina

From: Sappenfield, Anne
Sent: Tuesday, March 31, 2009 8:57 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-1756/1 Topic: Juvenile correctional costs; funding to counties

Please Jacket LRB 09-1756/1 for the SENATE.